

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the )  
natural parent and guardian of J. I., JUWAN )  
HARRINGTON, CYDNEEA HARRINGTON, )  
KENYA WALTON, individually and as the )  
natural parent and guardian of R.W., ZIYEL )  
WHITLEY, DYAMOND WHITLEY, )  
KAMISHA WHITLEY, NANETTA GRANT as )  
the natural parent and guardian of Z. G., and )  
EMANCIPATE NC., INC. )

Plaintiffs,

vs.

THE CITY OF RALEIGH, Officer OMAR I. )  
ABDULLAH, Sergeant WILLIAM ROLFE, )  
Officer RISHAR PIERRE MONROE, Officer )  
JULIEN DAVID RATTELADE, and Officer )  
MEGHAN CAROLINE GAY, Officer DAVID )  
MEAD, Officer JESUS ORTIZ, Officer KYLE )  
PERRIN, Officer MICHAEL MOLLERE, )  
Officer, KYLE THOMPSON, Officer )  
VINCENT DEBONIS, Officer DANIEL )  
TWIDDY, Officer THOMAS WEBB, Officer )  
DAVID MCDONALD, Officer DAVID )  
GARNER, Chief of Police ESTELLA )  
PATTERSON and City Manager MARCHELL )  
ADAMS-DAVID, in their official capacities. )

Defendants.

**DEFENDANTS R.P. MONROE, J.D.  
RATTELADE, AND M.C. GAY'S  
RENEWED MOTION TO DISMISS**

Defendants R.P. Monroe, J.D. Rattelade, and M.C. Gay (“Defendants”), in their individual capacities only, respectfully renew their motion to dismiss corporate plaintiff, Emancipate NC, Inc. (“Emancipate”), previously filed in this action [DE 62] and move the Court to dismiss Emancipate NC, Inc. as a Plaintiff in this action, on the grounds that Emancipate lacks standing to bring the claims asserted in the Second Amended Complaint. In support of this motion, Defendants state:

1. The factual allegations in the Second Amended Complaint establish that Emancipate, as a corporate organization, has not suffered an injury in fact that is fairly traceable to Defendants' alleged misconduct or that is likely redressable by a favorable decision.
2. Rather, the factual allegations show that Emancipate elected to engage in a variety of activities to pursue its broad mission to end mass incarceration and racism in the legal system independent of circumstances at issue in this case.
3. Emancipate's interest in this litigation is no more than an attempt to vindicate its preferences through the judicial system, which falls short of the injury in fact required to confer standing under Article III.
4. Defendants have specifically renewed their motion and seek to dismiss Emancipate's claims under the Second Amended Complaint.
5. In support of this Renewed Motion and in the interest of judicial economy, the Defendants rely on the pleadings filed to date, and, in lieu of an accompanying supporting memorandum, its Memorandum in Support of its original motion to dismiss [DE 63].
6. The allegations concerning Emancipate are unchanged. The same allegations made in the first Amended Complaint appear in the Second Amended Complaint. These Defendants' arguments apply to the same extent after the amendment as they did before it.
7. The Court possesses the discretion to evaluate the Defendants' original motion to dismiss in light of the facts alleged in the Second Amended Complaint. *See Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 303-04 (2d Cir. 2000); *Paragon Mgmt., LLC v. Epic Aviation, LLC*, No. 1:20-CV-01407, 2021 WL 3852109, as \*2 (E.D. Va. Aug. 27, 2021).
8. Under either approach, Emancipate should be dismissed from this action pursuant to Fed. R. Civ. P. 12(b)(1).

WHEREFORE, these Defendants respectfully request that the Court dismiss Emancipate as a Plaintiff and grant any other and further relief it deems proper and just.

This the 15<sup>th</sup> day of September, 2022.

By: /s/ Rodney E. Pettey  
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DAVID MCDONALD, Officer DAVID )  
GARNER, Chief of Police ESTELLA )  
PATTERSON and City Manager MARCHELL )  
ADAMS-DAVID, in their official capacities. )

Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that on September 15<sup>th</sup>, 2022, I electronically filed the foregoing  
**DEFENDANTS R.P. MONROE, J.D. RATTELADE, AND M.C. GAY'S RENEWED**  
**MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system which will send  
notification of such filing to the following:

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I hereby certify that I have mailed the document to the following non CM/ECF participants:

Respectfully submitted,

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